

BROOKS, PIERCE, McLENDON, HUMPHREY & LEONARD, L.L.P.

ATTORNEYS AT LAW

RALEIGH, NORTH CAROLINA

MAILING ADDRESS
POST OFFICE BOX 1800
RALEIGH, N.C. 27602

OFFICE ADDRESS
1600 WACHOVIA CAPITOL CENTER
150 FAYETTEVILLE STREET
RALEIGH, N.C. 27601

TELEPHONE (919) 839-0300
FACSIMILE (919) 839-0304

WWW.BROOKSPIERCE.COM

HENRY E. FRYE
OF COUNSEL

J. LEE LLOYD
SPECIAL COUNSEL

FOUNDED 1897

AUBREY L. BROOKS (1872-1958)
W.H. HOLDERNESS (1904-1965)
L.P. McLENDON (1890-1968)
KENNETH M. BRIM (1898-1974)
C.T. LEONARD, JR. (1929-1983)
CLAUDE C. PIERCE (1913-1988)
THORNTON H. BROOKS (1912-1988)
G. NEIL DANIELS (1911-1997)
HUBERT HUMPHREY (1928-2003)

GREENSBORO OFFICE
2000 RENAISSANCE PLAZA
230 NORTH ELM STREET
GREENSBORO, N.C. 27401

WASHINGTON OFFICE
601 PENNSYLVANIA AVENUE, N.W.
SUITE 900, SOUTH BUILDING
WASHINGTON, D.C. 20004

WRITER'S DIRECT DIAL

L.P. McLENDON, JR.
EDGAR B. FISHER, JR.
W. ERWIN FULLER, JR.
JAMES T. WILLIAMS, JR.
WADE H. HARGROVE
M. DANIEL MCGINN
MICHAEL D. MEEKER
WILLIAM G. McNAIRY
EDWARD C. WINSLOW III
HOWARD L. WILLIAMS
GEORGE W. HOUSE
WILLIAM P.H. CARY
REID L. PHILLIPS
ROBERT A. SINGER
JOHN H. SMALL
RANDALL A. UNDERWOOD
S. LEIGH RODENBOUGH IV
MARK J. PRAK
JILL R. WILSON
MARC D. BISHOP
JIM W. PHILLIPS, JR.
MACK SPERLING
JEFFREY E. OLEJNIK
MARK DAVIDSON
JOHN W. ORMAND III
ROBERT J. KING III
V. RANDALL TINSLEY
S. KYLE WOOSLEY
FORREST W. CAMPBELL, JR.
MARCUS W. TRATHEN
JEAN C. BROOKS
JAMES C. ADAMS II
ALLISON M. GRIMM
ELIZABETH S. BREWINGTON
H. ARTHUR BOLICK II
J. EDWIN TURLINGTON
JOHN M. CROSS, JR.
JENNIFER K. VAN ZANT

DAVID W. SAR
BRIAN J. McMILLAN
DAVID KUSHNER
DEREK J. ALLEN
CLINTON R. PINYAN
TERESA DeLOATCH BRYANT
COE W. RAMSEY
ROBERT W. SAUNDERS
ELIZABETH V. LaFOLLETTE
GINGER S. SHIELDS
JENNIFER T. HARROD
CHARLES E. COBLE
CHARLES F. MARSHALL III
PATRICK J. JOHNSON
JOHN M. DEANGELIS
STEPHEN G. HARTZELL
JESSICA M. MARLIES
ANDREW J. HAILE
J. BENJAMIN DAVIS
CAROLINE ELIZABETH RITCHIE
SARA R. VIZITHUM
C. SCOTT MEYERS
JOHN S. BUFORD
NICOLE A. CRAWFORD
ALEXANDER ELKAN
C. ROBIN BRITT, JR.
KATHERINE J. CLAYTON
KATHLEEN A. GLEASON
JANICE L. KOPEC
SUSAN M. YOUNG
DARRELL A. FRUTH
IAIN MACSWEEN
BENJAMIN R. NORMAN
ELIZABETH E. SPAINHOUR
ELIZA C. KENDRICK
JENNIFER C. NOBLE
DAVID L. NEAL

February 26, 2007

Via Overnight Mail and ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

Re: WBNX-DT, Akron, Ohio
MB Docket No. 05-317
TELEVISION STATION SECTION 339(a)(2)(D)(vii)
WAIVER EXTENSION REQUEST

Dear Ms. Dortch:

On behalf of Winston Broadcasting Network, Inc. ("Winston"), permittee of Digital Television Station WBNX-DT, Akron, Ohio, this letter requests an extension of waiver to prohibit satellite subscribers from obtaining signal tests of WBNX-DT's digital signal pursuant to Section 339(a)(2)(D)(vii) of the Communications Act, as amended by the Satellite Home Viewer Extension and Reauthorization Act of 2004 ("SHVERA"). The instant extension request is filed pursuant to the procedures set forth in the Commission's Public Notice in DA 05-2979 (Nov. 17, 2005) and in *Waiver of Digital Testing Pursuant to the Satellite Home Viewer Extension and Reauthorization Act of 2004*, Order, DA 06-801 (rel. May 1, 2006) ("Order"). Because WBNX-DT has experienced a delay in construction as a result of international coordination complications, the Commission granted Winston's initial waiver request in the *Order*, see *Order*, ¶ 14, and extended the waiver in *Waiver of Digital Testing Pursuant to the Satellite Home Viewer Extension and Reauthorization Act of 2004*, Order, DA 06-2232 (rel. October 31, 2006), ¶ 6.

Ms. Marlene H. Dortch

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WBNX-DT is an affiliate of The CW located in the Cleveland-Akron Designated Market Area ("DMA"). The Cleveland DMA is ranked 17th among Nielsen Media's 210 television markets for the 2006-2007 television season. WBNX-DT has received a tentative digital channel designation of Channel 30, which is WBNX-DT's allotted digital channel. Accordingly, absent grant of the instant extension request, as of April 30, 2007, satellite subscribers may request a signal test to demonstrate eligibility under SHVERA to receive a distant digital signal of a station affiliated with the same network as WBNX-DT.

The WBNX-DT construction permit was only granted on April 20, 2006 (File No. BPCDT-19991029AFM), and Winston has not yet completed construction of its digital facility. Winston has made all reasonable efforts to construct the facility, and it anticipates that construction will be completed as required in April 2007.¹ Absent grant of the instant waiver extension request to prevent signal testing under SHVERA, WBNX-DT is in jeopardy of losing service to all households who are predicted to receive service from the station but who may otherwise be eligible to receive service from a distant network affiliate.

As long as WBNX-DT remains off the air due to the construction delay caused by international coordination, WBNX-DT continues to satisfy the waiver criteria of Section 339(a)(2)(D)(viii)(I) of the Act. Winston projects that construction will be complete and WBNX-DT will be able to begin on-air testing in April 2007, as required by the station's construction permit. Because the *Order* requires the instant waiver extension request to be filed two months in advance of the expiration of the currently effective waiver, i.e., by February 28, 2007, Winston cannot state with certainty that the WBNX-DT facility will be complete and on-air before the current testing waiver's expiration on April 30, 2007, and it is, therefore, necessary to request this extension of waiver.²

For the reasons stated herein and out of an abundance of caution, Winston requests an extension of waiver to prohibit digital signal testing under SHVERA. If any questions should arise during the course of your consideration of this request, it is respectfully requested that you communicate with this office.

Sincerely,

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.



David Kushner
Stephen Hartzell
*Counsel to Winston
Broadcasting Network, Inc.*

cc: Nazifa Sawez, FCC (via email)

¹ Should construction be timely completed in April 2007, the instant request would become moot.

² Should construction be delayed beyond the expiration of the construction permit on April 21, 2007, by causes beyond Winston's control, Winston will timely file a request to extend its digital construction permit.